

Internal Revenue Service, Treasury

§ 303.1-1

tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property or interest in the hands of the Alien Property Custodian.

(c) Subject to the provisions of subsection (b) hereof, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the Custodian with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with the regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended with respect to any vested property or interest, or the earnings, increment or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) The word "tax" as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the Custodian.

(e) Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law shall not be affected by this section.

[Section 36 as added by the Act of August 8, 1946 (Pub. L. 671, 79th Cong., 60 Stat 929)]

EXECUTIVE ORDER 9788, APPROVED OCTOBER 14, 1946 (3 CFR 1943-1948 COMP., P. 575)

By virtue of the authority vested in me by the Constitution and statutes, including the Trading With the Enemy Act of October 6, 1917, 40 Stat. 411, as amended, and the First War Powers Act, 1941, 55 Stat. 838, as amended, and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942, is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or

transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such offices and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1946.

§ 303.1-1 Definitions.

(a) *General*. When used in this part, the terms defined in this section shall have the meaning so assigned to them. A term not defined in this section shall have the meaning, if compatible with the context, imputed thereto under the Internal Revenue Code of 1954.

(b) *Attorney General*. The term "Attorney General" includes the Alien Property Custodian whose functions were transferred to the Attorney General pursuant to Executive Order 9788 (3 CFR 1943-1948 Comp., p. 575), and any other officers and agencies to which such functions are transferred or assigned pursuant to such Executive Order, or otherwise.

(c) *Commissioner*. The term "Commissioner" means the Commissioner of Internal Revenue.

(d) *Person*. The term "person" includes an individual, a trust, estate, partnership, company, or corporation, and any entity having or claiming an interest in vested property or liable or charged with liability for internal revenue tax in connection with such property.

(e) *Former owner*. The term "former owner" means the owner immediately prior to vesting and any successor in interest by inheritance, devise, bequest, or operation of law, of such owner.

(f) *Trading With the Enemy Act*. The term "Trading With the Enemy Act" includes all amendments of such Act, and all orders, rules, and regulations

issued or prescribed under such Act or any such amendment.

(g) *Property*. The term “property” includes money, the proceeds of property, income, dividends, interest, annuities, and other earnings, but does not include any property or interest or any of the foregoing which vested in the Attorney General or was otherwise acquired by the United States prior to December 18, 1941.

(h) *Property vested by or in the Attorney General*. The terms “property vested by the Attorney General” and “property vested in the Attorney General” include property conveyed, transferred, assigned, delivered, or paid to or held or controlled by or vested in the Attorney General, under the Trading With the Enemy Act.

(i) *Engaged in trade or business in the United States*. The term “engaged in trade or business in the United States” includes the managing and renting of real estate in the United States by an agent of the Attorney General or of the former owner duly authorized to execute rental agreements and to pay all taxes and charges incident to the repair and maintenance of such property, but does not include the mere renting or leasing of property under an agreement requiring the lessee or occupant to pay taxes and to make repairs or improvements.

(j) *Tax*. The term “tax” has the meaning stated in section 36(d) of the Trading With the Enemy Act as added by the Act of August 8, 1946.

§ 303.1-2 Application of part.

(a) *Property covered*. This part is applicable in connection with property vested in the Attorney General on and after December 18, 1941. It is not applicable in connection with property or interest in property so vested or acquired by the United States prior to December 18, 1941, which property or interest is governed by Treasury Decision 4168, approved June 21, 1928, as amended by Treasury Decision 4254, approved January 7, 1929, and Treasury Decision 4514, approved January 18, 1935 (26 CFR (1938 ed.) 452.1-452.10).

(b) *Taxes covered*. Except as otherwise provided by specific exemption applicable with respect to the Alien Property Custodian, this part applies in the cir-

cumstances therein indicated, to any internal revenue tax applicable in respect of (1) property vested in the Attorney General or any action or transaction incidental to such property, or (2) any person whose property is so vested or any action or transaction of such person, whether the tax is applicable in respect of the period of vesting or any other period. Federal employment taxes are applicable with respect to wages paid to a person not a regular Government employee, permanent or temporary, for services immediately connected with the operation of an enterprise under control of the Attorney General such as might be rendered to a private operator.

§ 303.1-3 Protection of internal revenue prior to tax determination.

(a) *Suits and claims for return of vested property*—(1) *General*. The provisions of this paragraph apply in cases where there has been neither a final nor a tentative determination of internal revenue tax liability. See paragraphs (e) and (f) of § 303.1-4. In such cases vested property shall not be returned except in accordance with this paragraph.

(2) *Notice to Commissioner*—(i) *Suits for recovery*. Where suit for the return of vested property has been instituted under section 9 of the Act, within a reasonable time after answer has been filed or after beginning of the trial of the case, the Attorney General shall, in writing, notify the Commissioner of the property involved and the name, address, citizenship, residence, and business organization of the claimant, and any other pertinent information.

(ii) *Return without suit*. At least 90 days prior to any return of vested property pursuant to section 32 of the Act the Attorney General shall in writing notify the Commissioner in the manner prescribed in subdivision (i) of this subparagraph.

(3) *Return of property*—(i) *Without security*. Vested property, the subject of a suit or proceeding pursuant to the Trading With the Enemy Act, may be returned without security prior to determination of applicable internal revenue taxes and prior to the judgment of the court or publication of the order of the Attorney General directing such